UNITED NATIONS **A**

General Assembly

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A/RES/51/160
30 January 1997

Fifty-first session
Agenda item 146

RESOLUTION ADOPTED BY THE GENERAL ASSEMBLY

[on the report of the Sixth Committee (A/51/626)]

51/160. Report of the International Law Commission on the work of its forty-eighth session

The General Assembly,

Having considered the report of the International Law Commission on the work of its forty-eighth session,[1]

Emphasizing the importance of furthering the progressive development of international law and its codification as a means of implementing the purposes and principles set forth in the Charter of the United Nations and in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations,[2]

Emphasizing also the role of the International Law Commission in the fulfilment of the objectives of the United Nations Decade of International Law,

Recognizing the desirability of referring legal and drafting questions to the Sixth Committee, including topics that might be submitted to the International Law Commission for closer examination, and of enabling the Sixth Committee and the Commission further to enhance their contribution to the progressive development of international law and its codification,

Recalling the need to keep under review those topics of international law which, given their new or renewed interest for the international community, may be suitable for the progressive development and codification of international law and therefore may be included in the future programme of work of the International Law Commission,

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[1] Official Records of the General Assembly, Fifty-first Session, Supplement No. 10 and corrigendum (A/51/10 and Corr.1).

[2] Resolution 2625 (XXV), annex.

Stressing the usefulness of structuring the debate on the report of the International Law Commission in the Sixth Committee in such a manner that conditions are provided for concentrated attention to each of the main topics dealt with in the report,

Wishing to enhance further the interaction between the Sixth Committee as a body of government representatives and the International Law Commission as a body of independent legal experts, with a view to improving the dialogue between the two organs,

1. Takes note of the report of the International Law Commission on the work of its forty-eighth session;[1]

2. Expresses its appreciation to the International Law Commission for the work accomplished at its forty-eighth session, in particular for the completion of the final draft articles on the draft Code of Crimes against the Peace and Security of Mankind and the provisional draft articles on State responsibility, and draws the attention of the States participating in the Preparatory Committee on the Establishment of an International Criminal Court to the relevance of the draft Code to their work;

3. Requests the Secretary-General to invite Governments to submit, before the end of the fifty-third session of the General Assembly, their written comments and observations on action which might be taken in relation to the draft Code of Crimes against the Peace and Security of Mankind;

4. Recommends that, taking into account the comments of Governments, whether in writing or expressed orally in debates in the General Assembly, the International Law Commission should continue its work on the topics in its current programme;

5. Draws the attention of Governments to the importance, for the International Law Commission, of having their views on the draft articles on State responsibility adopted on first reading by the Commission, and urges them to submit their comments and observations in writing by 1 January 1998, as requested by the Commission;

6. Encourages Governments that may wish to do so to provide, in writing, their comments and observations on the report of the Working Group on International Liability for Injurious Consequences Arising out of Acts not Prohibited by International Law, annexed to the report of the International Law Commission,[3] in order that the Commission may, in the light of the report of the Working Group and such comments and observations as may be made by Governments and those that have been made in the Sixth Committee, consider at its forty-ninth session how to proceed with its work on the topic and make early recommendations thereon;

7. Invites States and international organizations, particularly those that are depositaries, to answer promptly the questionnaire prepared by the Special Rapporteur on the topic concerning reservations to treaties;

8. Notes the completion of the preliminary study of the topic "State succession and its impact on the nationality of natural and legal persons", requests the International Law Commission to undertake the substantive study of the topic "Nationality in relation to the succession of States" in accordance with the modalities provided for in paragraph 88 of its report, and

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[3] Official Records of the General Assembly, Fifty-first Session, Supplement No. 10 and corrigendum (A/51/10 and Corr.1), annex I.

invites Governments to submit comments on the practical problems raised by the succession of States affecting the nationality of legal persons;

9. Takes note with appreciation of paragraphs 143 to 244 of the report of the International Law Commission concerning its procedures and working methods;

10. Takes note of the comments of the International Law Commission on the question of a split session, as presented in paragraphs 228 to 233 of its report;

11. Encourages the International Law Commission, in relation to its internal matters, to take decisions which could contribute to its efficiency and productivity;

12. Takes note of the decision of the International Law Commission contained in paragraph 256 of its report on the duration of its next session;

13. Invites the International Law Commission further to examine the topics "Diplomatic protection" and "Unilateral acts of States" and to indicate the scope and the content of the topics in the light of the comments and observations made during the debate in the Sixth Committee on the report of the Commission and any written comments that Governments may wish to submit;

14. Requests the International Law Commission to continue to pay special attention to indicating in its annual report, for each topic, those specific issues, if any, on which expressions of views by Governments, either in the Sixth Committee or in written form, would be of particular interest in providing effective guidance for the Commission in its further work;

15. Reaffirms its previous decisions concerning the role of the Codification Division of the Office of Legal Affairs of the Secretariat and those concerning the summary records and other documentation of the International Law Commission;

16. Once again expresses the wish that seminars will continue to be held in conjunction with the sessions of the International Law Commission and that an increasing number of participants from developing countries will be given the opportunity to attend those seminars, appeals to States that can do so to make the voluntary contributions that are urgently needed for the holding of the seminars, and requests the Secretary-General to provide the seminars with adequate services, including interpretation, as required;

17. Requests the Secretary-General to forward to the International Law Commission, for its attention, the records of the debate on the report of the Commission at the fifty-first session of the General Assembly, together with such written statements as delegations may circulate in conjunction with their oral statements, and to prepare and distribute a topical summary of the debate, following established practice;

18. Also requests the Secretary-General to make appropriate arrangements to commemorate the fiftieth anniversary of the establishment of the International Law Commission through a colloquium on the progressive development and codification of international law, to be held during the consideration in the Sixth Committee of the report of the Commission on the work of its forty-ninth session;

19. Recommends that the debate on the report of the International Law Commission at the fifty-second session of the General Assembly commence on 27 October 1997.

85th plenary meeting
16 December 1996

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RESOLUTION ADOPTED BY THE GENERAL ASSEMBLY

[on the report of the Sixth Committee (A/51/628)]

51/161. Report of the United Nations Commission on International Trade Law on the work of its twenty-ninth session

The General Assembly,

Recalling its resolution 2205 (XXI) of 17 December 1966, by which it created the United Nations Commission on International Trade Law with a mandate to further the progressive harmonization and unification of the law of international trade and in that respect to bear in mind the interests of all peoples, in particular those of developing countries, in the extensive development of international trade,

Reaffirming its conviction that the progressive harmonization and unification of international trade law, in reducing or removing legal obstacles to the flow of international trade, especially those affecting the developing countries, would significantly contribute to universal economic cooperation among all States on a basis of equality, equity and common interest and to the elimination of discrimination in international trade and thereby to the well-being of all peoples,

Stressing the value of participation by States at all levels of economic development and with different legal systems in the process of harmonizing and unifying international trade law,

Having considered the report of the United Nations Commission on International Trade Law on the work of its twenty-ninth session,[1]

Mindful of the valuable contribution to be rendered by the Commission within the framework of the United Nations Decade of International Law, particularly as regards the dissemination of international trade law,

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[1] Official Records of the General Assembly, Fifty-first Session, Supplement No. 17 (A/51/17).

Concerned that activities undertaken by other bodies of the United Nations system in the field of international trade law without coordination with the Commission might lead to undesirable duplication of efforts and would not be in keeping with the aim of promoting efficiency, consistency and coherence in the unification and harmonization of international trade law, as stated in its resolution 37/106 of 16 December 1982,

Having considered the report of the Secretary-General on the implementation of paragraph 9 of General Assembly resolution 50/47,[2]

1. Takes note with appreciation of the report of the United Nations Commission on International Trade Law on the work of its twenty-ninth session;[1]

2. Notes with satisfaction the completion and adoption by the Commission of the Model Law on Electronic Commerce;[3]

3. Commends the Commission for the finalization of the Notes on Organizing Arbitral Proceedings;[4]

4. Expresses its appreciation for the progress made in its work on the subjects of receivables financing and cross-border insolvency;

5. Welcomes the decision of the Commission to request the Secretariat to review, with the assistance of experts and in cooperation with other international organizations having expertise in build-operate-transfer arrangements, issues on which legislative guidance might be useful, and to commence the preparation of a legislative guide on build-operate-transfer projects;[5]

6. Reaffirms the mandate of the Commission, as the core legal body within the United Nations system in the field of international trade law, to coordinate legal activities in this field and, in this connection:

(a) Calls upon all bodies of the United Nations system and invites other international organizations to bear in mind the mandate of the Commission and the need to avoid duplication of effort and to promote efficiency, consistency and coherence in the unification and harmonization of international trade law;

(b) Recommends that the Commission, through its secretariat, continue to maintain close cooperation with the other international organs and organizations, including regional organizations as well as other bodies such as the International Institute for the Unification of Private Law, which are active in the field of international trade law and other related areas;

7. Also reaffirms the importance, in particular for developing countries, of the work of the Commission concerned with training and technical assistance in the field of international trade law, such as assistance in the preparation of national legislation based on legal texts of the Commission;

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[2] A/51/382.

[3] Official Records of the General Assembly, Fifty-first Session, Supplement No. 17 (A/51/17), annex I; see also resolution 51/162, annex.

[4] Ibid., Supplement No. 17 (A/51/17), chap. II.

[5] Ibid., chap. IV, para. 229.

8. Expresses the desirability for increased efforts by the Commission, in sponsoring seminars and symposia, to provide such training and technical assistance, and in this connection:

(a) Expresses its appreciation to the Commission for organizing seminars and briefing missions in Belarus, Chile, Colombia, Gabon, Greece, Guinea, the Islamic Republic of Iran, Kazakstan, New Zealand, Paraguay, Slovenia, Turkey and the United Arab Emirates;

(b) Expresses its appreciation to the Governments whose contributions made it possible for the seminars and briefing missions to take place, and appeals to Governments, the relevant United Nations organs, organizations and institutions and individuals to make voluntary contributions to the United Nations Commission on International Trade Law trust fund for symposia and, where appropriate, to the financing of special projects, and otherwise to assist the secretariat of the Commission in financing and organizing seminars and symposia, in particular in developing countries, and in the award of fellowships to candidates from developing countries to enable them to participate in such seminars and symposia;

9. Appeals to the United Nations Development Programme and other bodies responsible for development assistance, such as the International Bank for Reconstruction and Development and the European Bank for Reconstruction and Development, as well as to Governments in their bilateral aid programmes, to support the training and technical assistance programme of the Commission and to cooperate and coordinate their activities with those of the Commission;

10. Appeals to Governments, the relevant United Nations organs, organizations and institutions and individuals, in order to ensure full participation by all Member States in the sessions of the Commission and its working groups, to make voluntary contributions to the trust fund for travel assistance to developing countries that are members of the Commission, at their request and in consultation with the Secretary-General;

11. Decides to include the trust funds for symposia and travel assistance in the list of funds and programmes that are dealt with at the United Nations Pledging Conference for Development Activities;

12. Also decides, in order to ensure full participation by all Member States in the sessions of the Commission and its working groups, to continue its consideration in the competent Main Committee during the fifty-first session of the General Assembly of granting travel assistance to the least developed countries that are members of the Commission, at their request and in consultation with the Secretary-General;

13. Requests the Secretary-General to ensure the effective implementation of the programmes of the Commission;

14. Stresses the importance of bringing into effect the conventions emanating from the work of the Commission for the global unification and harmonization of international trade law, and to this end urges States that have not yet done so to consider signing, ratifying or acceding to those conventions.

85th plenary meeting
16 December 1996

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RESOLUTION ADOPTED BY THE GENERAL ASSEMBLY

[on the report of the Sixth Committee (A/51/628)]

51/162. Model Law on Electronic Commerce adopted by the United Nations Commission on International Trade Law

The General Assembly,

Recalling its resolution 2205 (XXI) of 17 December 1966, by which it created the United Nations Commission on International Trade Law, with a mandate to further the progressive harmonization and unification of the law of international trade and in that respect to bear in mind the interests of all peoples, in particular those of developing countries, in the extensive development of international trade,

Noting that an increasing number of transactions in international trade are carried out by means of electronic data interchange and other means of communication, commonly referred to as "electronic commerce", which involve the use of alternatives to paper-based methods of communication and storage of information,

Recalling the recommendation on the legal value of computer records adopted by the Commission at its eighteenth session, in 1985,[1] and paragraph 5 (b) of General Assembly resolution 40/71 of 11 December 1985, in which the Assembly called upon Governments and international organizations to take action, where appropriate, in conformity with the recommendation of the Commission,[1] so as to ensure legal security in the context of the widest possible use of automated data processing in international trade,

Convinced that the establishment of a model law facilitating the use of electronic commerce that is acceptable to States with different legal, social and economic systems could contribute significantly to the development of harmonious international economic relations,

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[1] See Official Records of the General Assembly, Fortieth Session, Supplement No. 17 (A/40/17), chap. VI, sect. B.

Noting that the Model Law on Electronic Commerce was adopted by the Commission at its twenty-ninth session after consideration of the observations of Governments and interested organizations,

Believing that the adoption of the Model Law on Electronic Commerce by the Commission will assist all States significantly in enhancing their legislation governing the use of alternatives to paper-based methods of communication and storage of information and in formulating such legislation where none currently exists,

1. Expresses its appreciation to the United Nations Commission on International Trade Law for completing and adopting the Model Law on Electronic Commerce contained in the annex to the present resolution and for preparing the Guide to Enactment of the Model Law;

2. Recommends that all States give favourable consideration to the Model Law when they enact or revise their laws, in view of the need for uniformity of the law applicable to alternatives to paper-based methods of communication and storage of information;

3. Recommends also that all efforts be made to ensure that the Model Law, together with the Guide, become generally known and available.

85th plenary meeting
16 December 1996

ANNEX

Model Law on Electronic Commerce of the United Nations Commission on International Trade Law

PART ONE. ELECTRONIC COMMERCE IN GENERAL

CHAPTER I. GENERAL PROVISIONS

Article 1

Sphere of application[2]

This Law[3] applies to any kind of information in the form of a data message used in the context[4] of commercial[5] activities.

Article 2

Definitions

For the purposes of this Law:

(a) "Data message" means information generated, sent, received or stored by electronic, optical or similar means including, but not limited to, electronic data interchange (EDI), electronic mail, telegram, telex or telecopy;

(b) "Electronic data interchange (EDI)" means the electronic transfer from computer to computer of information using an agreed standard to structure the information;

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[2] The Commission suggests the following text for States that might wish to limit the applicability of this Law to international data messages:

"This Law applies to a data message as defined in paragraph 1 of article 2 where the data message relates to international commerce."

[3] This Law does not override any rule of law intended for the protection of consumers.

[4] The Commission suggests the following text for States that might wish to extend the applicability of this Law:

"This Law applies to any kind of information in the form of a data message, except in the following situations: [...]."

[5] The term "commercial" should be given a wide interpretation so as to cover matters arising from all relationships of a commercial nature, whether contractual or not. Relationships of a commercial nature include, but are not limited to, the following transactions: any trade transaction for the supply or exchange of goods or services; distribution agreement; commercial representation or agency; factoring; leasing; construction of works; consulting; engineering; licensing; investment; financing; banking; insurance; exploitation agreement or concession; joint venture and other forms of industrial or business cooperation; carriage of goods or passengers by air, sea, rail or road.

(c) "Originator" of a data message means a person by whom, or on whose behalf, the data message purports to have been sent or generated prior to storage, if any, but it does not include a person acting as an intermediary with respect to that data message;

(d) "Addressee" of a data message means a person who is intended by the originator to receive the data message, but does not include a person acting as an intermediary with respect to that data message;

(e) "Intermediary", with respect to a particular data message, means a person who, on behalf of another person, sends, receives or stores that data message or provides other services with respect to that data message;

(f) "Information system" means a system for generating, sending, receiving, storing or otherwise processing data messages.

Article 3

Interpretation

1. In the interpretation of this Law, regard is to be had to its international origin and to the need to promote uniformity in its application and the observance of good faith.

2. Questions concerning matters governed by this Law that are not expressly settled in it are to be settled in conformity with the general principles on which this Law is based.

Article 4

Variation by agreement

1. As between parties involved in generating, sending, receiving, storing or otherwise processing data messages, and except as otherwise provided, the provisions of chapter III may be varied by agreement.

2. Paragraph 1 does not affect any right that may exist to modify by agreement any rule of law referred to in chapter II.

CHAPTER II. APPLICATION OF LEGAL REQUIREMENTS TO DATA MESSAGES

Article 5

Legal recognition of data messages

Information shall not be denied legal effect, validity or enforceability solely on the grounds that it is in the form of a data message.

Article 6

Writing

1. Where the law requires information to be in writing, that requirement is met by a data message if the information contained therein is accessible so as to be usable for subsequent reference.

2. Paragraph 1 applies whether the requirement therein is in the form of an obligation or whether the law simply provides consequences for the information not being in writing.

3. The provisions of this article do not apply to the following: [...].

Article 7

Signature

1. Where the law requires a signature of a person, that requirement is met in relation to a data message if:

(a) A method is used to identify that person and to indicate that person's approval of the information contained in the data message; and

(b) That method is as reliable as was appropriate for the purpose for which the data message was generated or communicated, in the light of all the circumstances, including any relevant agreement.

2. Paragraph 1 applies whether the requirement therein is in the form of an obligation or whether the law simply provides consequences for the absence of a signature.

3. The provisions of this article do not apply to the following: [...].

Article 8

Original

1. Where the law requires information to be presented or retained in its original form, that requirement is met by a data message if:

(a) There exists a reliable assurance as to the integrity of the information from the time when it was first generated in its final form, as a data message or otherwise; and

(b) Where it is required that information be presented, that information is capable of being displayed to the person to whom it is to be presented.

2. Paragraph 1 applies whether the requirement therein is in the form of an obligation or whether the law simply provides consequences for the information not being presented or retained in its original form.

3. For the purposes of subparagraph (a) of paragraph 1:

(a) The criteria for assessing integrity shall be whether the information has remained complete and unaltered, apart from the addition of any endorsement and any change which arises in the normal course of communication, storage and display; and

(b) The standard of reliability required shall be assessed in the light of the purpose for which the information was generated and in the light of all the relevant circumstances.

4. The provisions of this article do not apply to the following: [...].

Article 9

Admissibility and evidential weight of data messages

1. In any legal proceedings, nothing in the application of the rules of evidence shall apply so as to deny the admissibility of a data message in evidence:

(a) On the sole ground that it is a data message; or

(b) If it is the best evidence that the person adducing it could reasonably be expected to obtain, on the grounds that it is not in its original form.

2. Information in the form of a data message shall be given due evidential weight. In assessing the evidential weight of a data message, regard shall be had to the reliability of the manner in which the data message was generated, stored or communicated, to the reliability of the manner in which the integrity of the information was maintained, to the manner in which its originator was identified, and to any other relevant factor.

Article 10

Retention of data messages

1. Where the law requires that certain documents, records or information be retained, that requirement is met by retaining data messages, provided that the following conditions are satisfied:

(a) The information contained therein is accessible so as to be usable for subsequent reference; and

(b) The data message is retained in the format in which it was generated, sent or received, or in a format which can be demonstrated to represent accurately the information generated, sent or received; and

(c) Such information, if any, is retained as enables the identification of the origin and destination of a data message and the date and time when it was sent or received.

2. An obligation to retain documents, records or information in accordance with paragraph 1 does not extend to any information the sole purpose of which is to enable the message to be sent or received.

3. A person may satisfy the requirement referred to in paragraph 1 by using the services of any other person, provided that the conditions set forth in subparagraphs (a), (b) and (c) of paragraph 1 are met.

CHAPTER III. COMMUNICATION OF DATA MESSAGES

Article 11

Formation and validity of contracts

1. In the context of contract formation, unless otherwise agreed by the parties, an offer and the acceptance of an offer may be expressed by means of data messages. Where a data message is used in the formation of a contract, that contract shall not be denied validity or enforceability on the sole ground that a data message was used for that purpose.

2. The provisions of this article do not apply to the following: [...].

Article 12

Recognition by parties of data messages

1. As between the originator and the addressee of a data message, a declaration of will or other statement shall not be denied legal effect, validity or enforceability solely on the grounds that it is in the form of a data message.

2. The provisions of this article do not apply to the following: [...].

Article 13

Attribution of data messages

1. A data message is that of the originator if it was sent by the originator itself.

2. As between the originator and the addressee, a data message is deemed to be that of the originator if it was sent:

(a) By a person who had the authority to act on behalf of the originator in respect of that data message; or

(b) By an information system programmed by or on behalf of the originator to operate automatically.

3. As between the originator and the addressee, an addressee is entitled to regard a data message as being that of the originator, and to act on that assumption, if:

(a) In order to ascertain whether the data message was that of the originator, the addressee properly applied a procedure previously agreed to by the originator for that purpose; or

(b) The data message as received by the addressee resulted from the actions of a person whose relationship with the originator or with any agent of the originator enabled that person to gain access to a method used by the originator to identify data messages as its own.

4. Paragraph 3 does not apply:

(a) As of the time when the addressee has both received notice from the originator that the data message is not that of the originator and has had reasonable time to act accordingly; or

(b) In a case within paragraph 3 (b), at any time when the addressee knew or should have known, had it exercised reasonable care or used any agreed procedure, that the data message was not that of the originator.

5. Where a data message is that of the originator or is deemed to be that of the originator, or the addressee is entitled to act on that assumption, then, as between the originator and the addressee, the addressee is entitled to regard the data message as received as being what the originator intended to send, and to act on that assumption. The addressee is not so entitled when it knew or should have known, had it exercised reasonable care or used any

agreed procedure, that the transmission resulted in any error in the data message as received.

6. The addressee is entitled to regard each data message received as a separate data message and to act on that assumption, except to the extent that it duplicates another data message and the addressee knew or should have known, had it exercised reasonable care or used any agreed procedure, that the data message was a duplicate.

Article 14

Acknowledgement of receipt

1. Paragraphs 2 to 4 of this article apply where, on or before sending a data message, or by means of that data message, the originator has requested or has agreed with the addressee that receipt of the data message be acknowledged.

2. Where the originator has not agreed with the addressee that the acknowledgement be given in a particular form or by a particular method, an acknowledgement may be given by:

(a) Any communication by the addressee, automated or otherwise; or

(b) Any conduct of the addressee,

sufficient to indicate to the originator that the data message has been received.

3. Where the originator has stated that the data message is conditional on receipt of the acknowledgement, the data message is treated as though it has never been sent, until the acknowledgement is received.

4. Where the originator has not stated that the data message is conditional on receipt of the acknowledgement, and the acknowledgement has not been received by the originator within the time specified or agreed or, if no time has been specified or agreed, within a reasonable time the originator:

(a) May give notice to the addressee stating that no acknowledgement has been received and specifying a reasonable time by which the acknowledgement must be received; and

(b) If the acknowledgement is not received within the time specified in subparagraph (a), may, upon notice to the addressee, treat the data message as though it had never been sent, or exercise any other rights it may have.

5. Where the originator receives the addressee's acknowledgement of receipt, it is presumed that the related data message was received by the addressee. That presumption does not imply that the data message corresponds to the message received.

6. Where the received acknowledgement states that the related data message met technical requirements, either agreed upon or set forth in applicable standards, it is presumed that those requirements have been met.

7. Except insofar as it relates to the sending or receipt of the data message, this article is not intended to deal with the legal consequences that may flow either from that data message or from the acknowledgement of its receipt.

Article 15

Time and place of dispatch and receipt of data message

1. Unless otherwise agreed between the originator and the addressee, the dispatch of a data message occurs when it enters an information system outside the control of the originator or of the person who sent the data message on behalf of the originator.

2. Unless otherwise agreed between the originator and the addressee, the time of receipt of a data message is determined as follows:

(a) If the addressee has designated an information system for the purpose of receiving data messages, receipt occurs:

(i) At the time when the data message enters the designated information system; or

(ii) If the data message is sent to an information system of the addressee that is not the designated information system, at the time when the data message is retrieved by the addressee;

(b) If the addressee has not designated an information system, receipt occurs when the data message enters an information system of the addressee.

3. Paragraph 2 applies notwithstanding the fact that the place where the information system is located may be different from the place where the data message is deemed to be received under paragraph 4.

4. Unless otherwise agreed between the originator and the addressee, a data message is deemed to be dispatched at the place where the originator has its place of business, and is deemed to be received at the place where the addressee has its place of business. For the purposes of this paragraph:

(a) If the originator or the addressee has more than one place of business, the place of business is that which has the closest relationship to the underlying transaction or, where there is no underlying transaction, the principal place of business;

(b) If the originator or the addressee does not have a place of business, reference is to be made to its habitual residence.

5. The provisions of this article do not apply to the following: [...].

PART TWO. ELECTRONIC COMMERCE IN SPECIFIC AREAS

CHAPTER I. CARRIAGE OF GOODS

Article 16

Actions related to contracts of carriage of goods

Without derogating from the provisions of part one of this Law, this chapter applies to any action in connection with, or in pursuance of, a contract of carriage of goods, including but not limited to:

(a) (i) Furnishing the marks, number, quantity or weight of goods;

(ii) Stating or declaring the nature or value of goods;

(iii) Issuing a receipt for goods;

(iv) Confirming that goods have been loaded;

(b) (i) Notifying a person of terms and conditions of the contract;

(ii) Giving instructions to a carrier;

(c) (i) Claiming delivery of goods;

(ii) Authorizing release of goods;

(iii) Giving notice of loss of, or damage to, goods;

(d) Giving any other notice or statement in connection with the performance of the contract;

(e) Undertaking to deliver goods to a named person or a person authorized to claim delivery;

(f) Granting, acquiring, renouncing, surrendering, transferring or negotiating rights in goods;

(g) Acquiring or transferring rights and obligations under the contract.

Article 17

Transport documents

1. Subject to paragraph 3, where the law requires that any action referred to in article 16 be carried out in writing or by using a paper document, that requirement is met if the action is carried out by using one or more data messages.

2. Paragraph 1 applies whether the requirement therein is in the form of an obligation or whether the law simply provides consequences for failing either to carry out the action in writing or to use a paper document.

3. If a right is to be granted to, or an obligation is to be acquired by, one person and no other person, and if the law requires that, in order to effect this, the right or obligation must be conveyed to that person by the transfer, or use of, a paper document, that requirement is met if the right or obligation is conveyed by using one or more data messages, provided that a reliable method is used to render such data message or messages unique.

4. For the purposes of paragraph 3, the standard of reliability required shall be assessed in the light of the purpose for which the right or obligation was conveyed and in the light of all the circumstances, including any relevant agreement.

5. Where one or more data messages are used to effect any action in subparagraphs (f) and (g) of article 16, no paper document used to effect any such action is valid unless the use of data messages has been terminated and replaced by the use of paper documents. A paper document issued in these circumstances shall contain a statement of such termination. The replacement of data messages by paper documents shall not affect the rights or obligations of the parties involved.

6. If a rule of law is compulsorily applicable to a contract of carriage of goods which is in, or is evidenced by, a paper document, that rule shall not be inapplicable to such a contract of carriage of goods that is evidenced by one or more data messages by reason of the fact that the contract is evidenced by such data message or messages instead of by a paper document.

7. The provisions of this article do not apply to the following: [...].